

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.7.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
W.P.No.1273 of 2010
and W.M.P.No.8462 of 2016

O.B.KARTHIKEYAN
SARASWATHI RICE MILL OLAPPALAYAM
MODAKKURICHI POST,
ERODE DISTRICT. ... PETITIONER

Vs.

1. THE STATE OF TAMILNADU
REP BY ITS SECRETARY TO GOVT.
DEPT. OF COOP. FOOD AND
CONSUMER PROTECTION,
FORT ST. GEORGE CHENNAI 9.
2. THE REGISTRAR OF CO.OP.SOCIETY,
KILPAUK CHENNAI 10.
3. THE JOINT REGISTRAR OF COOP.SOCIETIES,
ERODE REGION KARUNGALPALAYAM
ERODE.
4. THE SPECIAL OFFICER
MODAKKURICHI PRIMARY AGRL. COOP. BANK LTD
NO.AA 226 MODAKURICHI ERODE DT.
5. THE SECRETARY
MODAKURICHI PRIMARY AGRL. COOP. BANK LTD.,
NO.AA226 MODAKURICHI,
ERODE DISTRICT. ... RESPONDENTS

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the 2nd respondent in and by his impugned order passed in so far as it relates to the proceedings of the 3rd respondent in Na.Ka. No.9166/2009/A1 dt.27.10.2009 and quash the same and direct the 2nd 4th and 5th respondent to extend the proper interest calculation benefits to the petitioner from the actual date of availing the loan i.e. on 29.5.1998 in order to settle the loan as per the G.O. (2D) No.77 Cooperation Food and Consumer Protection Department dt.22.7.2009.

For Petitioner : Mr.C.Prakasam
For Respondents1to3 : Mr.T.Girija, G.A.
For Respondents4&5 : Mr.Muthumani Doraisamy

O R D E R

Petitioner is the sole Proprietor of Saraswathi Rice Mill, Modakurichi Village, catering the need of agriculturists to hull the paddy into rice on rate basis. Petitioner borrowed loan of Rs.10 lakhs on 8.8.2000 from the 3rd and 4th respondent Bank. Since the petitioner failed to repay the loan amount, 5th respondent Bank sent a notice, dated 17.8.2009, stating that if the petitioner is willing to settle the loan amount as per the G.O.(2D) No.77, dated 22.7.2009 the interest will be calculated at the rate of 6% with effect from 1.4.2003 and accordingly, the petitioner is liable to pay a sum of Rs.11,70,971/- The impugned order states that the loan waiver facilities can be granted only from the date of renewal of the loan. The impugned order passed by the second respondent is arbitrary, unjust, unreasonable, discriminatory and thus, liable to be quashed.

2 Heard the learned counsel for either side and perused the materials available on record.

3 This Court in a similar matter in W.P.No.22703 and 23369 of 2009, dated 30.11.2015 considered the issue and held as follows:

''6. However, this Court cannot examine all these aspects in these writ petitions, when the petitioners seriously dispute the fact that there is no consent obtained from the petitioners to renew the loan. Therefore, while recording the stand taken by the respondents that they are ready to extend the benefit of the Government Order to the petitioners, the short issue, which is in dispute, between the parties is the date from which the benefit of Government Order has to be extended, for which purpose, it is necessary for perusing the records of the respondent-Society to ascertain the date of renewal of loan, which is said to have been made by the respondent-Society. This exercise cannot be done in a Writ petition and for which purpose, this Court is of the view that the second respondent should nominate an Officer in the cadre of Joint Registrar, who will independently assess

the matter, call for records of the Modakuruchi Primary Agricultural Co-operative Credit Society pertaining to petitioners' loan amount and after affording an opportunity to the petitioners and the respondent/Society, take a decision in the matter, which shall be final binding upon the parties.

7. In the light of the above, there will be no necessity to set aside the proceedings, since the applicability of the Government Order is not in dispute. But only the date from which it is to be made applicable is at controversy. Therefore, the second respondent is directed to nominate Senior Officer in the cadre of Joint Registrar, who will issue notice to the petitioners and the third respondent/Society, call for records, examine the correctness of the submissions made by the petitioners and pass a speaking order and communicate the same to the petitioners within a period of eight weeks from the date of receipt of a copy of this order.''

3 In the light of the order passed by this Court cited supra, the second respondent is directed to nominate Senior Officer in the cadre of Joint Registrar who will issue notice to the parties, call for records, examine the correctness of the submissions made by the petitioner and pass a speaking order and communicate the same to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the above directions. No costs. Consequently, W.M.P.No.8462 of 2016 is closed.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

1. THE SECRETARY TO GOVERNMENT,
STATE OF TAMILNADU,
DEPT. OF COOP. FOOD AND CONSUMER PROTECTION,
FORT ST. GEORGE CHENNAI 9.
2. THE REGISTRAR OF CO.OP.SOCIETY,
KILPAUK CHENNAI 10.
3. THE JOINT REGISTRAR OF COOP.SOCIETIES,
ERODE REGION KARUNGALPALAYAM, ERODE.
4. THE SPECIAL OFFICER
MODAKKURICHI PRIMARY AGRL. COOP. BANK LTD
NO.AA 226 MODAKURICHI ERODE DT.
5. THE SECRETARY
MODAKURICHI PRIMARY AGRL. COOP. BANK LTD.,
NO.AA226 MODAKURICHI ERODE DISTRICT.

+1 CC to Govt. Pleader sr 48808.

+1 CC to Mr.C. Prakasam, Advocate sr 48512

+1 CC to Ms. Muthumani Doraisamy, Advocate sr 48417.

W.P.No.1273 of 2010
and W.M.P.No.8462 of 2016

SP(10/08/2017)

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